

AMENDED IN SENATE MARCH 14, 2012

SENATE BILL

No. 981

Introduced by Senator Yee
(Coauthor: Senator Correa)
(Coauthor: Assembly Member Hagman)

January 23, 2012

An act to amend Section 301 of, and to add Section 303.5 to, the Public Utilities Code, relating to the Public Utilities Commission.

LEGISLATIVE COUNSEL'S DIGEST

SB 981, as amended, Yee. Public Utilities Commission: commissioners: executive employees.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, as defined. The qualifications and tenure of members of the commission are set forth in the California Constitution. Existing law prohibits a commissioner from holding an official relation to or having a financial interest in a person or corporation subject to regulation by the commission and requires the commission to adopt an updated Conflict of Interest Code and State of Incompatible Activities. *Existing law authorizes the commission to appoint an attorney to the commission to hold office during the pleasure of the commission.*

Existing law provides for the comprehensive regulation of campaign financing, conflicts of interests of public officials, and lobbying. Existing law prohibits a designated employee of a state administrative agency, any officer, employee, or consultant of a state administrative agency holding a position that entails the making, or participation in making, of decisions that may foreseeably have a material effect on any financial interest, and a member of a state administrative agency, for a period of

one year after leaving office of employment, to act as agent or attorney for, or otherwise represent, any other person, by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or officer or employee thereof, for which he or she worked or represented during the 12 months before leaving office of employment, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.

This bill would prospectively prohibit a commissioner ~~or, executive employee of the commission, as defined, or the attorney appointed by the commission,~~ for a period of 2 years after leaving the employment of the commission, ~~from becoming an employee of, or, for compensation, acting as the agent for, a public utility subject to the regulatory authority of the commission pursuant to the Public Utilities Act representing, for compensation, any public utility, affiliate of a public utility, or other entity or person regulated by the commission by making any formal or informal appearance, or by making any oral or written communication, before the commission, or officer or employee thereof, if the appearance or communication is made for the purpose of influencing commission action.~~ The bill would prospectively prohibit the commission from hiring, as an executive employee of the commission, ~~or appointing as the attorney for the commission,~~ any person who, in the previous 2 years, was an ~~employee or agent, for compensation,~~ executive officer, as defined, of a public utility subject to the regulatory authority of the commission pursuant to the Public Utilities Act. The bill would prospectively prohibit any person from holding the office of commissioner who, in the previous 2 years, was an ~~employee or agent, for compensation,~~ executive officer of a public utility subject to the regulatory authority of the commission pursuant to the Public Utilities Act.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act, the bill's restrictions on actions that may be undertaken upon leaving the commission would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 301 of the Public Utilities Code is
2 amended to read:

3 301. (a) The membership of the Public Utilities Commission,
4 and the qualifications and tenure of the members of the commission
5 are as provided in Section 1 of Article XII of the Constitution of
6 this state.

7 (b) No person shall hold the office of commissioner who, ~~in~~
8 ~~during the previous~~ two years *prior to appointment*, was an
9 ~~employee or agent, for compensation, executive officer~~ of a public
10 utility subject to the regulatory authority of the commission
11 pursuant to this part. *For purposes of this subdivision, "executive*
12 *officer" has the same meaning as defined in Section 451.5. This*
13 *prohibition shall not be applicable to those persons appointed by*
14 *the Governor beginning before January 1, 2013.*

15 SEC. 2. Section 303.5 is added to the Public Utilities Code, to
16 read:

17 303.5. (a) For purposes of this section, an "executive employee
18 of the commission" means all of the following persons:

19 (1) Any chief of staff, executive assistant, or administrative
20 assistant I for a commissioner.

21 (2) The following advisors on the staff of a commissioner: any
22 legal advisor or legal advisor II, rotational advisor, policy and
23 planning advisor, energy efficiency and renewables advisor, *and*
24 technical advisor and technical advisor II.

25 (3) The executive director of the commission appointed pursuant
26 to Section 308.

27 (4) The following employees of the executive offices of the
28 commission: a deputy executive director, policy and planning
29 advisor, director of governmental affairs, communications director,

1 government program analyst, associate governmental program
2 analyst, public utilities regulatory analyst V, *and* administrative
3 assistant I.

4 ~~(5) The attorney for the commission appointed pursuant to~~
5 ~~Sections 307.~~

6 (b) No commissioner, including the president, ~~or~~ executive
7 employee of the commission ~~shall, for a period of two years after~~
8 ~~leaving the employment of the commission, become an employee~~
9 ~~of, or, for compensation, act as the agent for, a public utility subject~~
10 ~~to the regulatory authority of the commission pursuant to this part,~~
11 ~~or the attorney for the commission appointed pursuant to Section~~
12 ~~307, for a period of two years after leaving office or employment,~~
13 ~~shall, for compensation, act as agent or attorney for, or otherwise~~
14 ~~represent, any public utility, an affiliate of a public utility, or any~~
15 ~~other entity subject to regulation by the commission, by making~~
16 ~~any formal or informal appearance, or by making any oral or~~
17 ~~written communication, before the commission, or officer or~~
18 ~~employee thereof, if the appearance or communication is made~~
19 ~~for the purpose of influencing commission action. For purposes~~
20 ~~of this subdivision, an appearance before the commission does not~~
21 ~~include an appearance in a court of law, an appearance before~~
22 ~~an administrative agency or administrative law judge of an~~
23 ~~administrative agency, or an appearance before the Workers'~~
24 ~~Compensation Appeals Board. This prohibition shall not be~~
25 ~~applicable to a person who becomes hired as an executive~~
26 ~~employee of the commission after December 31, 2012 or appointed~~
27 ~~to be the attorney for the commission before January 1, 2013.~~

28 (c) The commission shall not hire ~~any person~~ as an executive
29 employee, *or appoint as the attorney for the commission, any*
30 *person who, in the previous two years, was an employee or agent,*
31 ~~for compensation, executive officer~~ of a public utility subject to
32 the regulatory authority of the commission pursuant to this part.
33 *For purposes of this subdivision, "executive officer" has the same*
34 *meaning as defined in Section 451.5. This prohibition shall be*
35 *applicable to persons hired as executive employees of, or appointed*
36 *to be the attorney for, the commission beginning January 1, 2013.*

37 *SEC. 3. No reimbursement is required by this act pursuant to*
38 *Section 6 of Article XIII B of the California Constitution because*
39 *the only costs that may be incurred by a local agency or school*
40 *district will be incurred because this act creates a new crime or*

1 *infraction, eliminates a crime or infraction, or changes the penalty*
2 *for a crime or infraction, within the meaning of Section 17556 of*
3 *the Government Code, or changes the definition of a crime within*
4 *the meaning of Section 6 of Article XIII B of the California*
5 *Constitution.*

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